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REMARKS

Claims 8, 22-24, 26-28, 30-32 and 34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Welty in view of Simmons. Welty teaches a coated article including a nickel layer applied on a substrate 12. The Examiner admits that Welty does not disclose a polymer layer. The Examiner contends that Simmons teaches a hard polymer layer 32 and it would be obvious to employ a polymer layer in Welty because of Simmons. Applicant respectfully disagrees.

Simmons is non-analogous art to both Applicant's invention and to Welty and is not reasonably pertinent to Applicant's particular problem. "In order to rely on a reference as a basis for rejection of an Applicant's invention, the reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

Simmons is not analogous art with Welty and Applicant's invention. The Examiner states that Simmons is in Welty and Applicant's field because they all relate to faucets. However, Simmons is not in Welty or Applicant's field because both Welty and Applicant's invention are directed to decorative and protective coatings that prevent corrosion and abrasions and provides decoration, and Simmons is directed to an ultraviolet reflective photocatalytic dielectric combiner that employs titanium dioxide to oxidize bacteria and contaminants to make a surface self-cleaning, self-sanitizing, and self-deodorizing. In Simmons, ultraviolet light initiates a photocatalytic reaction at the surface of titanium dioxide to provide a surface that kills bacteria and contaminants. This is far removed from Welty and Applicant's invention which are directed to protective and decorative coatings that provide abrasion and corrosion resistance. These fields are very different from each other. Additionally, each of these fields has specific and unique design criteria and component characteristics which are not compatible with each other. One skilled in the art seeking to modify a decorative and protective coating would not consider the self-sanitizing surface of Simmons.

Additionally, Simmons is not reasonably pertinent to Applicant's particular problem. A reference is reasonably pertinent if, even though it may be in a different field of endeavor, it logically would have commended itself to an inventor's attention in considering his problem because of the matter with which it deals. In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1061 (Fed. Cir. 1992). As discussed above, Simmons is clearly not within the field of decorative and protective coatings, which is the subject to which Applicant's invention is directed. A protective

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and decorative coating provides a desired appearance and also helps to provide corrosion and abrasion resistance. A self-sanitizing surface is used to kill bacteria and contaminants. Because Simmons relates to a self-cleaning surface, Simmons does not logically commend itself to the attention of an inventor seeking to solve problems present in decorating and protective coatings. Simmons is not reasonably pertinent to Applicant's particular problem.

The Examiner also argues it would have been obvious to provide the coating of Welty with a polymer layer, as taught by Simmons, because the polymer layer provides a viable alternative to electroplating in addition to providing corrosion resistance while leveling a substrate by forming a smooth hard surface. This is clearly hindsight reconstruction. It is impermissible to engage in hindsight reconstruction of the claimed invention, using the Applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby the Applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18USPQ2d 1885, 1888 (Fed. Cir. 1991). There simply is no suggestion in the references, or in the prior art as a whole, that suggests the desirability of making the combination.

Additionally, Simmons does not teach replacing a nickel layer with a polymer layer. Simmons teaches replacing a copper layer with a polymer layer (column 6, lines 39 to 44). A nickel layer can be added to the copper layer. However, the polymer layer replaces the copper layer in Simmons and does not replace a nickel layer. Simmons does not teach replacing a nickel layer with a polymer layer, and therefore, the combination of the references does not teach, suggest or disclose the claimed invention.

There also is no suggestion to make this modification. It is impermissible to modify a base reference in a manner that defeats the benefits achieved by the teachings of the reference. Welty teaches that the nickel layer provides corrosion resistance and acts as a leveling layer to cover or fill imperfections in the substrate. To eliminate the nickel layer and provide a polymer layer would defeat the benefits achieved by Welty. There is no support in Simmons that indicates the use of the polymer layer would satisfy all of the problems solved by using the nickel layer of Welty or that indicates the polymer layer performs in any way better than the nickel layer provided by Welty.

The Examiner has pointed to no teaching in Simmons of any particular benefit to be derived from using the polymer layer instead of the nickel layer. Nothing in Welty would lead one of ordinary skill in the art to believe that Welty's coating including a nickel layer was in any way deficient for Welty's purposes or was in need of modification. One of ordinary skill in the art

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would have found no reason, suggestion, or incentive for attempting to combine these references other than through the luxury of hindsight accorded one who first viewed Applicant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103.

The Examiner further objected to claim 25 under 35 U.S.C. §103(a) as being unpatentable over Welty in view of Simmons and Dewey. The Examiner asserts that Dewey teaches the use of an epoxy urethane, and claim 25 is obvious in view of the combination of Welty, Simmons and Dewey. Applicant respectfully disagrees.

Claim 25 is not obvious in view of the combination of Welty, Simmons and Dewey. There is no suggestion to use epoxy urethane in the combination of Welty and Simmons. Dewey discloses an epoxy urethane material, focusing on the chemistry and the method of making the epoxy urethane. Dewey does not disclose any specific use of the epoxy urethane, and certainly does not teach using the epoxy urethane as a coating in a faucet as disclosed in Welty. The epoxy urethane of Dewey does not logically comment itself to the attention of an inventor seeking to solve problems in decorative and protective coatings. Additionally, Claim 25 depends on patentable independent claim 8 and is allowable for the reasons set forth above. Adding Dewey to the combination does not render claim 25 obvious. The combination of Welty, Simmons and Dewey does not disclose or suggest claim 25, and Applicant respectfully requests that the rejection be withdrawn.

The Examiner further objected to claims 28 and 29 under 35 U.S.C. §103(a) as being unpatentable over Welty in view of Simmons and Meckel. The Examiner asserts that Meckel teaches a silver or lustrous gray color, which the Examiner is interpreting as equivalent to nickel. The Examiner argues it would be obvious to use the refractory metal compounds or refractory metal alloy compounds of Meckel as the color and protective layer of Welty to provide a nickel color, and therefore Claim 28 and 29 are obvious. Applicant respectfully disagrees.

Claim 28 and 29 are not obvious in view of the combination of Welty, Simmons and Meckel. The Meckel reference is not in Welty or Applicant's field and is not reasonably pertinent to the particular problem that Applicant has solved. Welty and Applicant's invention are directed to a coating for a faucet or a door knob that is decorative and provides abrasion protection, corrosion protection, and chemical resistance. Meckel is directed to a coating for a golf club. Thus, Meckel's field is related to golf clubs, while Welty and Applicant's field concern faucets and door knobs. These fields are very different from each other. Further, each of these fields has specific

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and unique design criteria and component characteristics, which are not compatible with each other. Additionally, Claims 28 and 29 depend on patentable independent claim 8 and are allowable for the reasons set forth above. Adding Meckel to the combination does not render claims 28 and 29 obvious. Claims 28 and 29 are not obvious, and Applicant requests that the rejection be withdrawn.

Thus, claims 1-4, 8-11 and 16-34 are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

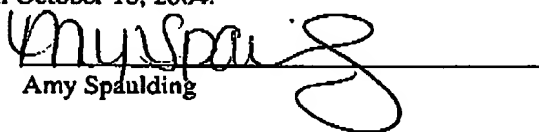


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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, 703-872-9306 on October 18, 2004.



Amy Spaulding